THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5871 OF 2006

DATED: 23-03-2006

BETWEEN

K. Srinivas Rao,

S/o. Late K. Durgaiah,

Occ: Business,

R/o.18-7-816,

Outside Gowlipura,

Hyderabad and another.

...PETITIONERS

AND

The Assistant City Planner,

Circle No.I, Municipal Corporation

of Hyderabad, Sardarmahal,

Charminar, Hyderabad and another.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the first respondent dated 18.03.2006 in orally threatening them to hand over the premises Nos.20-5-43 to 46 and 20-5-40 & 41 situated at Shah Ali Banda, Hyderabad without following due process of law as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the respondent.

Learned counsel for the petitioner submits that the petitioners are the joint owners of the aforementioned premises and are carrying out avocations of the artificial jewellery and eking out their livelihood with the income derived from the mulgies in the said premises. While so, the respondent – corporation has taken up the road-widening programme from Charminar to Falaknuma due to which the structures of the petitioners are completely affected.

The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said structures and they are trying to demolish the structures for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act and without following due procedure prescribed under law, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the premises of the petitioners or dispossess them without following due process of law either under Section 146 or 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No order as to costs.

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V. ESWARAIAH, J

March 23, 2006

Note: Furnish C.C. of the order by 25.03.2006

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DSK